REMARKS

I. Introduction

Claims 27-39 and 43-56 stand rejected. Claim 31 was amended to correct a typographical error. No new matter has been added and no new issue should be raised by the amendment, which is supported by the original disclosure. Claims 40-42 and 57-59 were withdrawn from issue.

In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

II. Restriction Requirement

Claims 57-59 depend from linking claim 48. Since, as explained below, claim 48 is allowable, rejoinder of claims 57-59 is respectfully requested.

In addition, Applicant respectfully disagrees with the Office Action's reasoning for the restriction. The Office Action states that "new claim 57 incorporated a skill based game, where the originally claimed lottery is a purely chance based game, and new 58-59 are drawn to event based wagering, and specifically sports related wagering, where the originally claimed invention is drawn to a lottery system and specifically an instant and interactive lottery game system." *Office Action* at 2. The Office Action's characterization of the claims is not correct. The interactive game recited in claim 48 is not limited to a lottery game.

III. Rejection of Claims 27 and 48 Under 35 U.S.C. § 103(a)

Claims 27 and 48 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,569,082 ("Kaye") in view of U.S. Patent 5,772,510 ("Roberts"). Claims 27 and 48 are not rendered obvious by the proposed combination of Kaye and Roberts.

Some example embodiments of Applicant's claimed invention generally relate to methods and systems related where an instant lottery ticket can optionally be activated for use in a supplemental interactive game that is played using a computing device. The instant lottery ticket can also be purchased without activating this feature. In contrast, Kaye does not teach or suggest such a hybrid ticket, or any game or game ticket dispenser with this feature.

To establish a prima facie case of obviousness, the prior art reference(s) must teach or suggest ALL the claim limitations. See MPEP 2143. Claim 27, as amended, recites in part:

27. A lottery gaming system, comprising:

a lottery ticket, the lottery ticket including a ticket identifier, an interactive game information, an instant game information, and a removable covering concealing the instant game information;

a lottery ticket dispenser configured to dispense the lottery ticket,

the lottery ticket dispenser including an input device configured to receive, prior to the lottery ticket being dispensed, an input indicating a player's choice between purchasing the lottery ticket as a hybrid instant lottery ticket that is also usable in an interactive game and purchasing the lottery ticket without activating the lottery ticket for use in the interactive game,

the lottery ticket dispenser configured, responsive to receiving the input indicating the player's choice to purchase the lottery ticket without activating the lottery ticket for use in the interactive game, to dispense the lottery ticket without activating the lottery ticket for use in the interactive game;

a central computer system in communication with the lottery ticket dispenser and configured to receive from the lottery ticket dispenser an indication that the player has chosen to purchase the lottery ticket for use in the interactive game, the central computer system configured to, responsive to the receipt of the indication, to activate the lottery ticket for use in the interactive game; and

a computing device remote from and in communication with the central computer system, the computing device configured to receive the interactive game information from the lottery ticket, **the computing device further configured to be utilized by the player to play the interactive game based at least in part on the interactive game information.**

The Office Action admits that Kaye fails to disclose games without the interactive game feature, or an instant lottery ticket that dispensing instant tickets can optionally be activated for use in an interactive game, *Office Action* at 3 ("Kaye fails to disclose games without the features of his invention (destiny bonus)...").

In an attempt to correct the defects of Kaye as a reference, the Office Action proposes the addition of Roberts. The Office Action characterizes Roberts as having "an input indicating a player's choice between purchasing the lottery ticket as a hybrid instant lottery ticket that is also usable in an interactive game and purchasing the lottery ticket without activating the lottery ticket for use in the interactive game". Applicant disagrees with this characterization of the Roberts reference. The interactive game recited in Applicant's claim 27 is an interactive game which is played using "a computing device" by the player. The Office Action characterizes Robert's scratch-off ticket as the recited "interactive game". Roberts does not teach or suggest an interactive game played using a computing device, let alone such a game which is played "based at least in part on the interactive game information". Moreover, what the Office Action characterizes as Roberts "interactive game" is in fact not an "interactive game" but merely a scratch-off lottery game. If this game

arguably corresponded to anything at all in Applicant's claim 27, it would be the "instant game" with information concealed by the removable coating, not the recited interactive game. Therefore, for at least this reason, the addition of Roberts does not supply the missing choice between whether to use a scratch off lottery ticket for just instant lottery play or also for an interactive game played using a computing device.

The Office Action also argues that it would have been obvious "to incorporate the vending machine style of Roberts to the Kaye invention to reach more types of gamblers and combined them into a single system. This would not be novel but the application of well known dispensing apparatuses." To the extent this is understood, the Applicant respectfully disagrees that it would have been obvious to make the proffered combination, and also disagrees that the proffered combination teaches or suggest all the features of Applicant's claim 27. "Vending machine style" is not a recited feature of Applicant's claim 27. Nothing in Roberts teaches or suggests a player choosing between whether to play a instant lottery game alone, or to add to the instant lottery game the ability to play an interactive game using a computing device.

Kaye also does not teach or suggest **receiving an input indicating a player's choice between purchasing the lottery ticket as a hybrid instant lottery ticket that is also usable in an interactive game and purchasing the lottery ticket without activating the lottery ticket for the interactive game**. In addressing this feature, the Office Action states that Kaye describes "an input indicating a player's choice to purchase a ticket (col. 4, lins. 40-52) for use only as an instant lottery ticket or as a hybrid instant lottery ticket that is also usable in an interactive game (col. 7, lins. 45-54; where a player may choose on a menu to play either a simple "lotto" game or an interactive 'horses game" using a lottery ticket)." *Office Action* at 3. However, the cited portions of the reference fail to disclose or suggest **an input indicating a player's choice between purchasing ... a hybrid instant lottery ticket ... and lottery ticket [not activated] for the interactive game.** Rather, col. 4, lines 40-52 of Kaye describe only purchasing tickets with Kaye's destiny code, which is the code used in his "entertainment game". Nothing in the references discloses or suggests the player can purchase a lottery ticket from Kaye's system as an instant game only, or as a hybrid instant and interactive game. In addition, col. 7, lines 45-54, cited in the Office Action does not relate to purchasing a ticket in any way. Rather, the cited material appears to refer to several games that may be played as the entertainment game **after** a ticket has been purchased. The Kaye reference does not disclose or suggest an input indicating a player's choice of whether

to purchase a ticket for use only as an instant lottery ticket or as a hybrid instant lottery ticket that is also usable in an interactive game.

To the extent the Office Action argues any feature of Applicant's claims are "well known" without referring to a specific feature of a cited reference, to preserve Applicant's rights on appeal, Applicant respectfully traverses, and requests either a specific citation to a reference or an affidavit. *See* 37 C.F.R. §1.104(d)(2).

Moreover, not only does the Kaye reference not disclose or suggest a lottery ticket including an interactive game information **and** an instant game information, but Kaye expressly teaches away from a scratch-off game, thus expressly teaching away from the proposed combination with Roberts. Kaye, as background, at col. 1, lines 25-35, discusses a conventional scratch-off lottery ticket, which does **not** include interactive game information. Kaye, in the paragraph immediately following the cited 1:25-35 paragraph, denigrates scratch-off games as "boring". This expressly teaches away from any combination of a conventional instant ticket with Kaye's game.

It is therefore respectfully submitted that neither Kaye, nor Kaye combined with Roberts, teach or suggest all the features of claim 27. Dependent claims 28-38 and 43-47[1] should also be patentable over Kaye for similar reasons.

Separately and independently, with respect to claim 28, neither Kaye nor Roberts teach or suggest printing interactive game information on an instant win lottery ticket responsive to an indication the player has chosen to purchase the instant win lottery ticket for use in an interactive game. Kaye 3:4-12, cited in the Office Action as allegedly teaching this feature, cannot teach or suggest this feature, particularly since Kaye ***does not teach or suggest using instant win lottery tickets*** that a player may selectively choose to activate for use in an interactive game.

Separately and independently, with respect to claim 29, neither Kaye nor Roberts teach or suggest a reader ***in the ticket dispenser*** configured to read the ticket identifier from the lottery ticket prior to the ticket being activated for use in the interactive game. The Office Action cites Kaye 4:53-61, where tickets are read by an amusement game terminal, but this reading occurs only after tickets have been dispensed and activated for use in the interactive game, not before, and not by the ticket dispenser. Therefore claim 29 should be allowable for at least this additional reason.

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[1] No statutory basis for the rejection of claims 28-38, 43-47, and 49-54 were provided in the Office Action. See MPEP 707.07(d). Accordingly, Applicant respectfully requests a re-mailed office action with proper statutory rejections and a new mailing date, pursuant to MPEP 710.06 and 707.13.

Separately and independently, with respect to claim 30, neither Kaye nor Roberts teach or suggest a reader ***in the ticket dispenser*** that is configured to read the ticket. The Office Action cites Kaye 3:4-18, but this section of Kaye is silent as to that feature. To the extent the Office Action is taking Official Notice that this feature is allegedly "well known", the Applicant traverses and requests an affidavit of personal knowledge from the Examiner.

Separately and independently, claim 31 recites that the ticket dispenser is configured to communicate the ticket identifier read from the lottery ticket to the central computer system. The Office Action cites Kaye 4:46-52 as allegedly teaching this feature. The cited section is silent as to this feature. If anything, this section might arguably imply sending Kaye's destiny codes **from the central server to the dispenser**, not vice versa. Since the recited feature is not present in the cited references, claim 31 should be allowable for at least this additional reason.

Claim 48, which was rejected for the same reasons as claim 27, should be allowable for similar reasons to claim 27. Dependent claims 49-54, which depend from claim 48, should be allowable for at least the same reasons. Claim 50,49, and 51 should also be allowable for additional reasons similar to claims 28, 29, and 31 respectively.

It is therefore respectfully submitted that claim 27, and its dependent claims 28-38, and claim 48, and its dependent claims 49 to 54, are patentable over Kaye in view of Roberts. Withdrawal of the rejection is respectfully requested.

III. Rejection of Claims 39 Under 35 U.S.C. § 103(a)

Claim 39 was rejected under 35 U.S.C. § 103(a) over Kaye in view of U.S. Patent 5.356,144 ("Fitzpatrick"). It is respectfully submitted that proposed combination of Kaye and Fitzpatrick does not render obvious claim 39 for at least the following reasons.

Claims 39 depends from claim 27 and therefore should be allowable for at least the same reasons as those given above for claim 27. Moreover, the Office Action admits that Kaye does not teach or suggest all the features of Applicant's claim 27. Fitzpatrick is not put forward as correcting and does not correct the defects of Kaye as a reference with respect to claim 27. Accordingly, Kaye combined with Fitzpatrick does not teach all the features of claim 27, or its child claim 39. Claim 39 should therefore be allowable over the proposed combination of references.

Applicant's claim 39 has a feature of "a computing device remote from and in communication with the central computer system, the computing device configured to receive

the interactive game information from the lottery ticket, the computing device further configured to be utilized by the player to play the interactive game based at least in part on the interactive game information" where the computing device is "a handheld device". The Office Action, to the extent it is understood, does not explain, and the proposed combination is not believed to teach, how combining the "non-portable lottery generating device of Kaye" with the portable lottery device of Fitzpatrick, yields the claimed feature of Applicant's claim 39.

Accordingly, since the proposed combination of Kaye and Fitzpatrick does not disclose or suggest all of the features of either claim 27, or of its dependent claim 39, claim 39 is patentable over the proposed combination of Kaye and Fitzpatrick.

IV. Rejection of Claims 55 and 56 Under 35 U.S.C. § 103(a)

Claims 55 and 56 were rejected under 35 U.S.C. § 103(a) over Kaye in view of U.S. Patent 5,158,293 ("Mullins"). It is respectfully submitted that the proposed combination of Kaye and Mullins does not render claims 55 or 56 obvious for at least the following reasons.

Claims 55 and 56 depend from claim 48, and therefore should be allowable for at least the same reasons as those given above for claim 48. Also, as admitted in the Office Action, Kaye does not teach or suggest all the features of claim 48. Mullins is not put forward as teaching, and does not teach, the features of claim 48 missing from the Kaye reference that were discussed previously.

Separately and independently from the arguments made above for its parent claim, claim 55 recites "providing the interactive game information ***on the removable covering***", e.g., on a peel off or pull off layer concealing the instant game information. As discussed previously, the interactive game information is information used to play an interactive game using a computing device. Mullins neither teaches nor suggests providing information used to play an interactive game using a computing device, and certainly does not suggest providing such information on a removable covering for an instant game.

Moreover, claim 56 recites "the receiving at least a portion of the interactive game information from the ticket at the computing device occurs **after** the tender of the lottery ticket, the interactive game information being provided by the player from removable covering." The only covering described in Mullins is a scratch-off or rub-off. Thus, the player in Mullins will not be left with any cover having game play information once they play the instant win game ticket. Accordingly, once Mullins' ticket is tendered for redemption,

Mullins' player is without the information printed on Mullin's scratch-off area. Thus, even if Mullins arguably had the required information on the scratch-off region, which it does not, it would be inoperative for use in a game operating according to Applicant's claim 56. Thus, claim 56 should be allowable for this additional reason.

Since neither Mullins, nor Kaye, nor their combination, teach or suggest all the features of Applicant's claim 55 and 56. These claims are therefore not obvious over the proposed combination.

CONCLUSION

All issues raised in the Office Action are believed to have been addressed. In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Entry of the amendment, and prompt reconsideration and allowance of the present application are therefore earnestly solicited. The Commissioner is authorized to charge any fee arising in connection with the filing of this paper, including any necessary extension of time, to the deposit account of **Kirkpatrick & Lockhart Preston Gates Ellis LLP**, Deposit Account No. **0080570**. The Examiner is cordially invited to telephone the undersigned if any issue or question arises with respect to the present application.

Respectfully submitted

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By: _____

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